

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NADER ABOUELMAKAREM,

Plaintiff,

-v-

MDNMA INC. et al.,

Defendants.  
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21-cv-10625 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff Nader Abouelmakarem moves, pursuant to Federal Rule of Civil Procedure 37(a)(1) to compel discovery from defendants MDNMA Inc., MSSMINJA Inc., Mahmoud Mustafa, and Nazih K. Mustafa (collectively, “Defendants”). Dkt. No. 40. Plaintiff argues that Defendants have failed to respond to Plaintiff’s first request for documents, the responses to which were originally due on May 11, 2022. *Id.* at 2. Plaintiff also complains that defendant MDNMA Inc. has provided deficient interrogatory responses. *Id.* By order of August 8, 2022, I directed Defendants to respond by August 9, 2022 to the motion to compel. Dkt. No. 41. On August 12, 2022, the Court received a letter from counsel for MDNMA Inc., indicating that MDNMA has filed a petition for bankruptcy under Chapter 7 of the United States Bankruptcy Code and requesting the Court to stay the present action. Dkt. No. 42. Although the letter is signed by counsel as “Attorney for the Defendants,” it does not specifically address defendants MSSMINJA Inc. or the individual defendants Mahmoud Mustafa, and Nazih K. Mustafa. Those defendants have not filed a formal motion for a stay. The letter does not otherwise address the Defendants’ discovery deficiencies. Plaintiff opposes a stay of the action noting that a “suit

against a codefendant is not automatically stayed by the debtor's bankruptcy filing." Dkt. No. 44 at 1 (quoting 3 Collier on Bankruptcy § 362.03[3][d] (15th ed. 2002)).

The case is stayed as against defendant MDNMA Inc. 11 U.S.C. § 362(a)(1). Counsel shall provide updates to the Court on September 30, 2022 and every two months thereafter on the status of the bankruptcy case and its position on whether the stay can be lifted. Accordingly, the motion to compel is denied as against MDNMA Inc. The motion to compel is granted as against MSSMINJA Inc., Mahmoud Mustafa, and Nazih K. Mustafa and those defendants are ordered to provide responses to the first request for production of documents served by Plaintiff by no later than September 12, 2022, on pain of sanctions if they fail to comply. The automatic stay generally applies only to the debtor. *See Le Metier Beauty Inv. Partners LLC v. Metier Tribeca, LLC*, 2014 WL 4783008, at \*2 (S.D.N.Y. Sept. 25, 2014). "The automatic stay can apply to non-debtors, but normally does so only when a claim against the non-debtor will have an immediate adverse economic consequence for the debtor's estate." *Queenie, Ltd. v. Nygard Int'l*, 321 F.3d 282, 287 (2d Cir. 2003). "The application of the stay to actions against non-debtors is limited ... to actions with 'an adverse impact on a debtor that occurs by operation of law.'" *In re Fogarty*, 39 F.4th 62, 75 (2d Cir. 2022) (quoting *Picard v. Fairfield Greenwich Ltd.*, 762 F.3d 199, 208 (2d Cir. 2014)). Defendants MSSMINJA Inc., Mahmoud Mustafa, and Nazih K. Mustafa have not moved for a stay, nor have they shown that the limited circumstances in which a bankruptcy filing by one defendant prevents a plaintiff from pursuing its action against other defendants would apply here. Those defendants have not shown any justification for failing to respond to the document demands.

The Clerk of Court is directed to close Dkt. No. 40.

SO ORDERED.

Dated: August 17, 2022  
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', written over a horizontal line.

LEWIS J. LIMAN  
United States District Judge